

REMARKS

REVOCATION OF POWER AND NEW POWER OF ATTORNEY

On July 12, 2004 a signed revocation of prior powers and appointment of new attorneys of record was submitted by facsimile to the Patent Office. Entry of same into the records was anticipated, but so far no record of it appears in PAIR. Accordingly, a copy of this submission is attached herewith.

PROVISIONAL PETITION FOR EXTENSION OF TIME - 1 MONTH

In the Detailed Action description at page 2 of the aforementioned Office Action the Examiner made an error in enumerating the claims of invention group II. The Examiner enumerated claims 27-28 and there are no such claims in the original application (which only includes claims 1-14). Applicants had contacted the Examiner a number of times and requested that the time to respond be reset because of this error and a more clear and definite Office Action be issued. The Examiner indicated that the file is not available and as soon as it was made available the Examiner will visit the issue and if the error is confirmed the time will be reset.

After repeated inquiries, Applicant received no correspondence to indicate a new time to respond. Accordingly, along with this response, Applicant is submitting a provisional petition for extension of time by one month under 37 CFR 1.136.

REQUEST FOR RESET OF TIME TO RESPOND, OR PETITION UNDER 1.183 FOR WAIVER OF EXTENSION FEES

Applicant received assurances from the Examiner that the error would be visited and the time for response will be set if the error is confirmed. Therefore Applicant waited for Action from the Examiner. However, up till now applicant received no indication that any action was taken and, from follow up calls with the Examiner earlier and today, Applicant understands that the Examiner could not obtain the file to visit this issue. Therefore, the delay should not be attributed to Applicant. Should it be impossible to reset the time for response to the aforementioned Office Action so that an extension fee of \$55 is not imposed under 37 CFR 1.17(a)(1), Applicant submits herewith a petitions under 37 CFR 1.183 for waiver of the extension fees.

RESTRICTION REQUIREMENT AND ELECTION OF CLAIMS

As mentioned above, the Restriction Requirement indicated in the aforementioned Office Action is not definite and clear because it enumerates claims in Group II that are not present in the original application. Applicant can only assume what the Examiner meant and attempt to respond based on this assumption. Applicants assume that the Examiner meant that Group II includes claims 11-14.

Based on this, Applicant elects the claims of Group I, claims 1-10, and withdraws from consideration claims 11-14 of Group II. This election is made without prejudice or surrender of any subject matter and without any admission against interest. Moreover, Applicant reserves the right to present the unelected claims in a continuing application.

AMENDMENT OF CLAIMS

In addition, Applicant amended claims 1-10, without introducing any new matter thereto, in order to recite the invention more clearly and present the claims in better form. Accordingly, claims 1-10 remain pending.

CONCLUSION

The present application is believed to be in condition for allowance and a Notice of Allowance of the pending claims is hereby respectfully requested.

The Commissioner is authorized to charge any required fees, additional fees, or credit any overpayment to Deposit Account 50-2778.

Respectfully submitted,



Leah Sherry, Attorney for Applicants
Reg. No. 43,918

Date: August 25, 2004

DECHERT LLP

Customer No. 37509

Telephone: 650.813.4800

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited on August 25, 2004, with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.

Date: August 25, 2004

Yvette Yturralde-Owen